IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

Crl.Rev.Pet.No. 2485 of 2006

CRA.314/2004 of SESSIONS COURT, KOZHIKOE
CC.362/2001 of JUDL.MAGISTRATE OF FIRST CLASS-I, PERAMBRA

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REVN. PETITIONERS/APPELLANTS/ACCUSED NOS.1 & 2:

1. HAMSA, S/O. MUHAMMAD, MELADATH
   LAKSHAM VEEDU, PALERI AMSOM,
   MUTHUVANNACHA DESOM, THEKKEDATH
   KADAVU, KOYILANDY TALUK.

2. MUSTHAFA, S/O. HAMSA, MELADATH
   LAKSHAM VEEDU, PALERI AMSOM,
   MUTHUVANNACHA DESOM, THEKKEDATH
   KADAVU, KOYILANDY TALUK.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA THROUGH THE SUB
INSPECTOR OF POLICE, PERAMBRA POLICE
STATION REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.A.SALIM

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 05/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.R.P.No. 2485 of 2006

ORDER

Accused (two in number), convicted and sentenced to undergo rigorous imprisonment for one year each for offence under Section 324 IPC read with Section 34 thereof in C.C.No.362/01 on the file of the Judicial First Class Magistrate's Court - I, Perambra, are the revision petitioners. The appeal filed by them as Crl.A.No.314/04 was disposed of by the appellate court confirming the conviction for offence under Section 324 IPC read with Section 34 thereof, but modifying the sentence to one of simple imprisonment for three months each and fine of Rs.2,500/- each and in default to undergo simple imprisonment for a further term of one month each. Hence, this revision.

2. When the matter came up for final hearing before me, counsel for the petitioners submitted

that he does not want the matter to be considered on merits, as there is little chance of this Court interfering in the concurrent findings of the courts below with regard to the guilt of the accused and therefore, his prayer is only to have the sentence of imprisonment modified to one of fine or compensation. The sentence as modified by the appellate court is simple imprisonment for three months each and fine of Rs.2,500/- each. I am of the view that the fine imposed on each of the petitioners can be raised to Rupees five thousand with provision that in default of payment of fine, they have to undergo simple imprisonment for four months each.

3. In the result, I confirm the conviction of the petitioners by the courts below for offence under Section 324 IPC read with Section 34 thereof. All the same, the sentence is modified to one of fine of Rupees five thousand each. The fine amount shall be deposited in the court below positively

within one month from today. In case of failure, the trial court shall take steps to implement the sentence in default of payment fine as against the petitioners.

This Crl.R.P. is disposed of accordingly.

5th January, 2007 (K.P.Balachandran, Judge)

tkv